



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2013 REGULAR SESSION

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HOUSE BILL NO. 385

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FRIDAY, MARCH 1, 2013

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The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED  
DATE April 5, 2013  
2:35pm  
ALISON LUNDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY L. Adles

1 AN ACT relating to personal representatives.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 395.605 is amended to read as follows:

- 4 (1) Upon the sworn application of any fiduciary, that the fiduciary is the sole  
5 beneficiary of any estate, the court may dispense with the requirements of this  
6 chapter regarding periodic or final settlement of fiduciaries' accounts and may  
7 dispense with the requirements of a surety for the fiduciary and shall accept from  
8 the fiduciary an informal settlement. The informal settlement shall be made, under  
9 oath, by the fiduciary and shall state that the estate was solvent; that all legal claims  
10 and debts have been paid, or if not paid, the manner in which the claims and debts  
11 have been provided for; that, for final settlement, the requirements of the  
12 inheritance, estate or similar death statutes have been met and the tax paid, if due  
13 and payable; that all court costs have been paid; the name of the attorney(s), if any,  
14 representing the fiduciary, and the amount of the attorney's fee, and that the  
15 beneficiary has received his or her share. An informal settlement may be filed at any  
16 time after expiration of six (6) months from the fiduciary's appointment. Upon the  
17 filing of the informal final settlement, the court may enter an order discharging the  
18 fiduciary, and his or her surety, if any. When a settlement is effected in the informal  
19 manner, no notice to any person shall be required nor shall the court be compelled  
20 to inquire into detailed items of income or disbursements.
- 21 (2) If a proposed periodic or final settlement of a fiduciary is accompanied by a verified  
22 waiver executed by all of the beneficiaries of an estate, and none of the beneficiaries  
23 is under a disability, the court shall accept from the fiduciary an informal settlement  
24 which meets the requirements of subsection (1) of this section. Said beneficiaries  
25 may request an accounting of the assets of the estate prior to execution of the  
26 waiver. No verified waiver need be obtained from a nonresiduary legatee who has  
27 received and receipted for his or her legacy, the canceled check or signed receipt

1 attached to the proposed settlement being sufficient evidence of satisfaction. The  
 2 court may require the fiduciary to execute bond with or without surety to insure the  
 3 application of the estate assets to the debts of the decedent.

4 (3) In the event that one (1) or more of the beneficiaries of the estate is under a  
 5 disability, the court may allow the filing of an informal settlement if the court is of  
 6 the opinion that the best interests of the person under the disability would be served.

7 ➔Section 2. KRS 311.625 is amended to read as follows:

8 (1) A living will directive made pursuant to KRS 311.623 shall be substantially in the  
 9 following form, and may include other specific directions which are in accordance  
 10 with accepted medical practice and not specifically prohibited by any other statute.  
 11 If any other specific directions are held by a court of appropriate jurisdiction to be  
 12 invalid, that invalidity shall not affect the directive.

13 "Living Will Directive

14 My wishes regarding life-prolonging treatment and artificially provided nutrition and  
 15 hydration to be provided to me if I no longer have decisional capacity, have a terminal  
 16 condition, or become permanently unconscious have been indicated by checking and  
 17 initialing the appropriate lines below. By checking and initialing the appropriate lines, I  
 18 specifically:

19 .... Designate ..... as my health care surrogate(s) to make health care decisions  
 20 for me in accordance with this directive when I no longer have decisional capacity. If  
 21 ..... refuses or is not able to act for me, I designate ..... as  
 22 my health care surrogate(s).

23 Any prior designation is revoked.

24 If I do not designate a surrogate, the following are my directions to my attending  
 25 physician. If I have designated a surrogate, my surrogate shall comply with my wishes as  
 26 indicated below:

27 .... Direct that treatment be withheld or withdrawn, and that I be permitted to die naturally

1 with only the administration of medication or the performance of any medical treatment  
2 deemed necessary to alleviate pain.

3 .... DO NOT authorize that life-prolonging treatment be withheld or withdrawn.

4 .... Authorize the withholding or withdrawal of artificially provided food, water, or other  
5 artificially provided nourishment or fluids.

6 .... DO NOT authorize the withholding or withdrawal of artificially provided food, water,  
7 or other artificially provided nourishment or fluids.

8 .... Authorize my surrogate, designated above, to withhold or withdraw artificially  
9 provided nourishment or fluids, or other treatment if the surrogate determines that  
10 withholding or withdrawing is in my best interest; but I do not mandate that withholding  
11 or withdrawing.

12 .... Authorize the giving of all or any part of my body upon death for any purpose  
13 specified in KRS 311.1929.

14 .... DO NOT authorize the giving of all or any part of my body upon death.

15 In the absence of my ability to give directions regarding the use of life-prolonging  
16 treatment and artificially provided nutrition and hydration, it is my intention that this  
17 directive shall be honored by my attending physician, my family, and any surrogate  
18 designated pursuant to this directive as the final expression of my legal right to refuse  
19 medical or surgical treatment and I accept the consequences of the refusal.

20 If I have been diagnosed as pregnant and that diagnosis is known to my attending  
21 physician, this directive shall have no force or effect during the course of my pregnancy.

22 I understand the full import of this directive and I am emotionally and mentally  
23 competent to make this directive.

24 Signed this .... day of ....., 19...

25                                      Signature and address of the grantor.

26 In our joint presence, the grantor, who is of sound mind and eighteen (18) years of age, or  
27 older, voluntarily dated and signed this writing or directed it to be dated and signed for

1 the grantor.

2 Signature and address of witness.

3 Signature and address of witness.

4 OR

5 STATE OF KENTUCKY)

6 .....County)

7 Before me, the undersigned authority, came the grantor who is of sound mind and  
8 eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and  
9 signed this writing or directed it to be signed and dated as above.

10 Done this .... day of ....., 19...

11 Signature of Notary Public or other officer.

12 Date commission expires:.....

13 Execution of this document restricts withholding and withdrawing of some medical  
14 procedures. Consult Kentucky Revised Statutes or your attorney."

15 (2) An advance directive shall be in writing, dated, and signed by the grantor, or at the  
16 grantor's direction, and either witnessed by two (2) or more adults in the presence of  
17 the grantor and in the presence of each other, or acknowledged before a notary  
18 public or other person authorized to administer oaths. None of the following shall  
19 be a witness to or serve as a notary public or other person authorized to administer  
20 oaths in regard to any advance directive made under this section:

21 (a) A blood relative of the grantor;

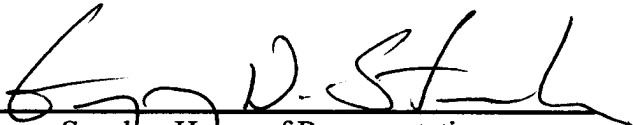
22 (b) A beneficiary of the grantor under descent and distribution statutes of the  
23 Commonwealth;


24 (c) An employee of a health care facility in which the grantor is a patient, unless  
25 the employee serves as a notary public;

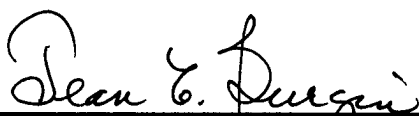
26 (d) An attending physician of the grantor; or

27 (e) Any person directly financially responsible for the grantor's health care.

- 1 (3) A person designated as a surrogate pursuant to an advance directive may resign at  
2 any time by giving written notice to the grantor; to the immediate successor  
3 surrogate, if any; to the attending physician; and to any health care facility which is  
4 then waiting for the surrogate to make a health care decision.
- 5 (4) An employee, owner, director, or officer of a health care facility where the grantor  
6 is a resident or patient shall not be designated or act as surrogate unless related to  
7 the grantor within the fourth degree of consanguinity or affinity or a member of the  
8 same religious or fraternal order.

  
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Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date 4-5-13